

EXHIBIT 4

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA
3

4 AMANDA FEENSTRA and
5 SHARONICA CARTER, et al.,
Plaintiff,

6 vs. No. 19-CV-JFH-FHM

7 JARED SIGLER, et al.,
8 Defendants.
9

10
11 DEPOSITION OF LINDA THOMAS
12 TAKEN ON BEHALF OF THE PLAINTIFFS
ON JANUARY 28, 2021, BEGINNING AT 9:34 A.M.
13 VIA ZOOM
14

15 APPEARANCES:

16 Appearing on behalf of the PLAINTIFF:

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22 (Appearances continued on the following page.)
23
24

25 REPORTED BY: Lacy Antle, CSR, RPR

Appearances continued:

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STIPULATIONS

It is hereby stipulated and agreed by and between the parties hereto, through their respective attorneys, that the deposition of LINDA THOMAS may be taken pursuant to agreement and in accordance with the Federal Rules of Civil Procedure on JANUARY 28, 2021, via Zoom, before Lacy Antle, CSR, RPR.

1 WHEREUPON,

2 LINDA THOMAS,

3 after having been first duly sworn, deposes and
4 says in reply to the questions propounded as
5 follows, to-wit:

6 DIRECT EXAMINATION

7 BY MR. FOWLER:

8 Q Good morning, Judge Thomas.

9 A Good morning, sir.

10 Q So I'm going to introduce myself. I'm
11 John Fowler, I'm with the Lawyers' Committee, based
12 in Washington D.C. Also on this call is my
13 colleague, Arthur Ago, also from the Lawyers'
14 Committee. I think you know the other folks,
15 Mr. Williford, Mr. Pederson, Ms. Lawson on the call.

16 Let me start off by asking you where
17 you're testifying from?

18 A I'm at the Washington County Courthouse.

19 Q And is anybody else there in the room with
20 you?

21 A Mr. Pederson.

22 Q Have you ever been deposed before?

23 A Yes, sir.

24 Q How many times have you been deposed?

25 A I think only once.

1 Q And what was that in connection with?

2 A It was in connection with a car accident.

3 Q Were you being sued as a defendant or were
4 you the plaintiff in that case or a witness?

5 A It -- well, I don't really know, sir,
6 because it was a insurance company versus insurance
7 company.

8 Q Understood. And is there anything that
9 would prevent you from testifying honestly and
10 truthfully today, for example, are you not feeling
11 well, are you on any medication that might impair
12 your ability to testify here today?

13 A No, sir.

14 Q When did you first become aware of this
15 lawsuit, Feenstra V Sigler, now styled as Feenstra V
16 Sigler?

17 A Shortly after it was filed, when it was
18 Curtis DeLapp and Judge John Gerkin were named as
19 defendants I knew about it. I'm not sure exactly
20 the day it was filed, but it was called to my
21 attention shortly thereafter.

22 Q And who called it to your attention?

23 A I don't know.

24 Q Was it Mr. DeLapp or Judge Gerkin?

25 A No.

1 Q Was it somebody from the office of the
2 attorney general?

3 A Sir, I don't know. I don't recall who
4 told -- who told me about the lawsuit or -- I don't
5 know.

6 Q Mr. Pederson, before we started --

7 A Well, I will answer this question, it
8 wasn't someone from the attorney general's office,
9 for sure.

10 Q Was it somebody who worked in the
11 Washington County courthouse?

12 A Other than that, I don't know, sir.

13 Q Mr. Pederson, before we started, mentioned
14 that he wanted to take a little time to review some
15 documents that I sent over that was Exhibits A, D
16 DD, II, JJ, KK, LL, MM, as in a Mary, NN as in
17 Nancy, and OO [sic]. Did you review those documents
18 prior to starting the deposition?

19 (Exhibit A, Exhibit D, Exhibit DD, Exhibit
20 II, Exhibit JJ, Exhibit KK, Exhibit LL, Exhibit MM,
21 Exhibit NN marked for identification.)

22 A Well, sir, my understanding was those
23 documents were sent to us early this morning, just
24 prior to the deposition, and for whatever reason,
25 our Administrative Office of the Courts have blocked

1 those coming through to our official email, so I
2 don't have them. Had you sent them earlier, I might
3 have been able to get them printed off or figure out
4 a way to get them, but I don't have them.

5 I will say this, I do have -- I don't know
6 what exhibit numbers they are, but I do have my
7 outline from the Rotary presentation and Leadership
8 Bartlesville presentation, which is two of the
9 attachments, I do have that, but all the other
10 documents I don't have.

11 Q Did you review your presentations to the
12 Rotary Club and Leadership Bartlesville prior to
13 this deposition?

14 Can you hear me?

15 Is that me cutting out, am I breaking up
16 here?

17 MS. LAWSON: No, I think she's frozen.

18 MR. FOWLER: Okay. All right. It looks
19 like our witness is frozen right now.

20 MR. WILLIFORD: It's almost like we need
21 to make movement mandatory so we know nobody gets
22 frozen on these things.

23 (Break taken from 9:18 a.m. to 9:35 a.m.)

24 Q (BY MR. FOWLER) Did you review your
25 presentations to the Rotary Club and Leadership

1 Bartlesville prior to this deposition?

2 A I have not reviewed those presentations
3 since I actually gave them to the Rotary club and to
4 Leadership Bartlesville, so...

5 Q Did you review any -- any documents or
6 files or records prior to this deposition in
7 preparation for this deposition?

8 A No.

9 Q Did you meet or talk with Mr. Williford,
10 attorney for the OIDS defendants in this case, in
11 preparation for this deposition?

12 A No.

13 Q Has anybody provided you guidance on how
14 to answer questions for this deposition?

15 A I've had a discussion with Mr. Pederson,
16 probably less than five minutes worth.

17 Q And are you friends with or do you have a
18 personal connection with any of the other current
19 sitting judges in Washington County?

20 A I don't understand your question.
21 Personal connection? I work with them every day, so
22 I'm assuming that you -- that that would be
23 personal. And am I friends with them? We're a
24 small county and so, you know, most of the attorneys
25 and judges are friends, so I don't know what you're

1 looking for.

2 Q So you are friends with the current
3 sitting judges and special judges in Washington
4 County?

5 A Yes, and have been for years.

6 Q Are you friends with Curtis DeLapp?

7 A No.

8 Q Do you have any personal connection with
9 Curtis DeLapp?

10 A The only connection I have with Mr. DeLapp
11 is that he continues to appear before me in cases
12 that are set in Washington or Nowata County.

13 Q Have you talked with any of the other
14 current sitting judges or special judges in
15 Washington County about this case?

16 A Yes.

17 Q Have you talked with any of the -- well,
18 have you talked with Curtis DeLapp about this case?

19 A No.

20 Q Okay. I want to ask you some questions
21 about when you joined the bench and took this
22 current role. When did you take the bench?

23 A January 2019.

24 Q And who was the district judge when you
25 joined the bench?

1 A There wasn't one when I joined the bench.

2 Q Was anybody in an acting capacity, taking
3 over the supervisory roles of the district judge
4 when you joined the bench?

5 A I don't know whether Judge Vaclaw -- I
6 don't know he was appointed -- excuse me -- whether
7 he was appointed by anyone or whether he just did it
8 because nobody else was doing it, I don't know.

9 Q So Judge Vaclaw was acting in the district
10 judge in the sense of taking responsibility for
11 supervisory decisions?

12 A I don't know. I don't know what he did
13 prior to me taking the bench.

14 Q And in your capacity, you're the district
15 judge for Judicial District 11, right?

16 A Yes.

17 Q When you are actually presiding over
18 cases, not in the sort of management role, what
19 kinds of criminal cases do you handle in your
20 current assignment?

21 A Misdemeanors and felonies.

22 Q And for Washington County, what's the
23 split between you and the other judges, if you had
24 to split up the entire criminal docket, what
25 percentage do you handle?

1 A I don't know, at least half -- well, I
2 don't know. I am assigned half of the felonies,
3 Judge Vaclaw has half the felonies. When you talk
4 about the total criminal docket and you include the
5 misdemeanors in there, I would not be able to -- I'd
6 have to have a calculator and some more information
7 to figure the percentage, because I don't know how
8 many misdemeanor cases there are, but Judge --
9 excuse me, Judge Sigler has the responsibility for
10 the majority of the misdemeanor cases.

11 Q So let me ask you about the felony cases.
12 Of the felony criminal cases that you handle, what
13 percentage have a court-appointed attorney for the
14 defendant?

15 A I don't know.

16 Q More than 50 percent?

17 A If you want me to take a guess, I can, but
18 I don't know. I don't know.

19 Q What would your best estimate be, more or
20 less than 50 percent?

21 A More than 50 percent.

22 Q Of those cases that have a court-appointed
23 attorney, so throw out the private cases of the
24 felony cases that have a court-appointed attorney,
25 what percentage of those have an attorney from OIDS

1 or contracted with OIDS?

2 A I don't understand your question.

3 Q So looking at the set of cases that you
4 handle, the felony cases that you handle that have a
5 court-appointed attorney, are all of the cases that
6 you handle felony cases with a court-appointed
7 attorney appointed an attorney from OIDS or that has
8 a contract with OIDS?

9 A I believe so, yes.

10 Q Do you ever preside over the cost docket?

11 A No.

12 Q Do you ever substitute in for the special
13 judge who's assigned to the cost docket when he or
14 she may be available?

15 A No.

16 Q You've never presided over the cost
17 docket?

18 A No, not in Washington County. I do the
19 cost docket in Nowata County.

20 Q And is that your exclusive -- well, let me
21 ask a better question.

22 In Nowata County, does any other judge
23 handle the cost docket?

24 A Not that I know of. That doesn't mean
25 that Judge Gibson won't occasionally take care of a

1 case, but I have the docket.

2 Q Understood. And how often do you preside
3 over the cost docket in Nowata County?

4 A Once a month.

5 Q Do you preside over hearings to reduce
6 fines, fees and costs, sometimes called Rule 8
7 hearings?

8 A We always call them Rule 8 hearings, but I
9 do in Nowata County and occasionally I will have a
10 case in Washington County if Judge Sigler has a
11 conflict.

12 Q How many Rule 8 hearings to reduce fines,
13 fees or costs have you presided over in Washington
14 County when Judge Sigler had a conflict?

15 A Probably less than 10.

16 Q And what kind of conflict causes you to
17 have to step in for Judge Sigler?

18 A It could be a variety of things, for
19 example, I believe it was either Ms. Feenstra or
20 Mr. Feenstra, and I don't recall which one, I
21 presided over a Rule 8 hearing for one of them when
22 he was a named defendant and I was not in this
23 lawsuit.

24 Q I want to ask you some questions about the
25 personnel of the Washington County District Court.

1 Court reporters are part of the District Court
2 personnel, right?

3 A Yes.

4 Q So is the court clerk and her staff?

5 A Yes.

6 MR. PEDERSON: Object to form.

7 THE WITNESS: Yes.

8 MR. FOWLER: And, Devan, what's the
9 objection to the form?

10 MR. PEDERSON: Well, I think it was
11 established in prior depositions that the court
12 clerk and their staff are county employees and
13 they're not controlled by the judicial department
14 and so, you know, the county -- the court clerk is a
15 county office, the state district judge doesn't --
16 can't hire or fire the court clerk or any of their
17 employees, it's a separate thing.

18 MR. FOWLER: So, Devan, I don't believe
19 that's a form objection. I'd ask you to not provide
20 answers. If you have a form objection, I just
21 wanted to be sure I was making my questions comport
22 with whatever form you thought appropriate, but I'll
23 keep moving on.

24 Q (BY MR. FOWLER) Special judges are part of
25 the district court personnel, right?

1 A Correct.

2 Q And as the -- well, let me ask, who else
3 is part of district court personnel?

4 A I -- the two special judges and the two
5 court reporter -- three court reporters.

6 Q And as the district judge, you have
7 administrative and supervisory control over all
8 district court personnel, right?

9 A Yes.

10 Q Washington County has administrative
11 orders that govern its operations, right?

12 A I don't know that I would agree with you
13 that it governs our operation. I would agree that
14 they govern some procedures.

15 Q So the Washington County Courthouse has
16 administrative orders that govern the procedures
17 within the courthouse?

18 A Yes.

19 Q And what kind of administrative orders
20 does the courthouse have?

21 A Well, the courthouse really doesn't have
22 any. The district judges, over years, have
23 developed administrative orders and those are filed
24 in the court clerk's office, so -- and they can
25 cover a variety of things.

1 Q It's district court judges who develop and
2 promulgate administrative orders for a courthouse?

3 A For this courthouse anyway.

4 Q Outside of administrative orders, what
5 other policies control procedures or operations
6 within a courthouse, within your courthouse?

7 A The Oklahoma statutes.

8 Q Does the district judge in Washington
9 County issue any other policies in writing that
10 govern operations or procedures or processes or
11 decision making, outside of administrative orders?

12 A No.

13 Q In Washington County, the district judge
14 is also responsible for promulgating local criminal
15 rules, right?

16 A No.

17 Q Washington County --

18 A I want to back up a question.

19 Q Okay.

20 A When you said, do -- something to the
21 effect, do we have written -- does the Washington
22 County judge do written procedure?

23 Q Any written policies that govern
24 operations or procedures or decision making, does
25 Washington County, the courthouse, have any of those

1 written policies, outside of administrative orders?

2 A We don't have -- as far as I know, we
3 don't have any written policies, but we have put
4 together some written procedures.

5 Q And --

6 A I know -- go ahead.

7 Q No, go ahead.

8 A That's all right.

9 Q The written procedures that you have,
10 could you give examples of those?

11 A Well, we have, with respect to fines and
12 costs, we have those written procedures as to how we
13 handle the fines and costs, payment of fines and
14 costs. The defendant will have -- those policies --
15 or excuse me, those procedures are written down, so
16 the defendants get a copy of that so they'll know
17 what to do and have it written down for them,
18 there's some things like that that we have
19 procedures written down. Right off the top of my
20 head, sir, I can't think of any written procedures
21 that we might have that we follow here at the
22 Washington County Courthouse.

23 Q So let's talk about those --

24 A Let me back up on that one as well. We
25 certainly have some administrative orders that have

1 been issued with respect to COVID, once we get our
2 orders from our Supreme Court Board of Criminal
3 Appeals, so yes, we do have some, definitely have
4 some written procedures regarding access to the
5 courthouse and to the courts during this time of the
6 COVID pandemic.

7 Q The written procedures about handling
8 fines, fees and costs, who created those written
9 procedures about fines, fees and costs?

10 A I think that was kind of a joint project
11 between Judge Vaclaw and Judge Sigler and myself.

12 Q When you say the written procedures that
13 are written down so defendants get a copy of that,
14 do you have written procedures that are independent
15 of what is given to defendants?

16 A No.

17 Q I want to go back to local rules. I asked
18 you whether the district judge is responsible for
19 promulgating local criminal and civil rules and what
20 was your answer to that?

21 A I think the judge has -- the district
22 judge has the authority to promulgate rules with
23 respect to the -- their individual courtrooms and
24 like I would have -- I have the authority to
25 promulgate certain rules with respect to demeanor,

1 procedure, dress, a variety of things in the
2 courtroom.

3 Q Has your role -- in your role as district
4 judge, do you assign the judges and special judges
5 to the different dockets and calendars?

6 A Yes. I -- well, no, yes and no. I assign
7 the dockets, they do their own calendars.

8 Q You assign judges, for example, to the
9 cost docket, you assigned or approved the assignment
10 of Judge Sigler to the cost docket in Washington
11 County?

12 A Yes.

13 Q And same for yourself, you approved or
14 assigned yourself to the cost docket in Nowata
15 County?

16 A Yes.

17 Q And as the district judge, it's your role
18 approve policies or administrative orders that are
19 put into place by folks below you that you
20 supervise?

21 A Persons who -- none of the people I
22 supervise do administrative orders.

23 Q Some of the folks you supervise do develop
24 written procedures, right?

25 A No.

1 Q When you said the procedures about fines,
2 fees and costs that was a joint project between two
3 other judges and yourself?

4 A Right.

5 Q Those written procedures were ultimately
6 subject to your review and approval, because you are
7 the district judge, not an associate district judge,
8 right?

9 A Yes.

10 Q I'm going to show you Exhibit II, as in
11 icicle.

12 All right. Can you see my screen?

13 A Yes.

14 Q All right. I'm showing you Exhibit II.
15 This is --

16 A You're going to have to make that a little
17 bit bigger like you did before, because it's kind of
18 small.

19 Q Exhibit II is Rule 2 --

20 A It's too big now, I can't see it all.
21 Sorry.

22 Q Can you see it now?

23 A It goes off the margin.

24 Q Okay.

25 A There you go.

1 Q How's that?

2 A That's better.

3 Q Exhibit II is Rule 2, Administrative and
4 Supervisory Control over District Court Personnel,
5 right?

6 A That's what it purports to be, yes.

7 Q This looks like a fair and accurate copy,
8 as I scroll down to the bottom, right?

9 A It appears to be a fair and accurate copy,
10 I don't have anything to compare it to.

11 Q You've seen this statute before?

12 A Yes.

13 Q And this statute is what vests in you the
14 administrative and supervisory control of particular
15 individuals inside the Washington County and Nowata
16 County Courthouse, right?

17 A Yes.

18 Q Okay. I want to ask you about your own
19 training leading up to your taking the bench in
20 January of 2019. When you joined the bench,
21 Washington County had on file some training and
22 policy materials related to the assessment and
23 recovery of fines, fees and costs, right?

24 A Say that again. I don't think I
25 understood your question.

1 Q When you joined the bench, the courthouse
2 had on file some training and policy materials
3 related to the assessment and recovery of fines,
4 fees and costs?

5 Did the witness freeze up again?

6 MR. WILLIFORD: Yeah, looks like maybe so.

7 MR. FOWLER: Okay.

8 (Break taken from 9:48 a.m. to 9:56 a.m.)

9 Q (BY MR. FOWLER) So I wanted to return to
10 the question that I had asked before the connection
11 problem started: When you joined the bench,
12 Washington County had on file some training and
13 policy materials related to the assessment and
14 recovery of fines, fees and costs, right?

15 A I don't know whether there was anything on
16 file or not.

17 Q At the Washington County courthouse, for
18 example, there was a spiral bound document and there
19 is a spiral bound document prepared by the
20 Administrative Office of the Courts about court
21 costs collections, right?

22 A I've not seen it.

23 Q Okay. I'm going to show you Exhibit JJ.
24 Can you see Exhibit JJ on the screen?

25 A I can.

1 Q And it's a document labeled, "Court Costs
2 Collections," presented by the Administrative Office
3 of the Courts, right?

4 A That's what it purports to be, yes, sir.

5 Q This is a document that was turned over in
6 discovery as coming from the Washington County
7 courthouse. Is it your testimony that you've never
8 seen this document before?

9 A I've never seen it.

10 Q Where are these sorts of documents from
11 the Administrative Office of the Courts stored in
12 the Washington County Courthouse?

13 A I don't know.

14 Q Do you have other documents from AOC that
15 are stored within the Washington County Courthouse?

16 A I -- I don't have any documents from AOC
17 that were here before I got here. And when you say
18 "documents," I get -- I get emails and all kinds of
19 things from AOC on a fairly regular basis, but don't
20 know what you mean by "documents."

21 Q Let me ask, where does the Washington
22 County Courthouse store training materials from the
23 Administrative Offices of the Courts?

24 A I don't know of any training materials
25 from the Office of -- Administrative Offices of the

1 Courts.

2 Q Okay. If you look at the second PDF page
3 here, it reads, "Cost Collection Training
4 Objectives," right?

5 A Sir, that was a document promulgated in
6 2009 by a former administrative director of the
7 courts, that -- I have never seen that document, I
8 don't know where it is and it is -- certainly is not
9 -- well, I don't know what's in it, so it's 86
10 pages, you sent it to me this morning, I don't know
11 what it is -- I mean, I know what it is, I just
12 don't know what it contains.

13 Q Page 2 of the document reads, "Costs
14 Collection Training Objectives," right?

15 A That's what the title says, yes.

16 Q Okay. I want to go down to page 26 of the
17 PDF. Can you see the page that I'm zooming in on
18 labeled "Best Practices for Judges" with numbers 5
19 and 6?

20 A I can see it, yes.

21 Q And number 6 reads that a best practice
22 for judges are, quote, Require that the defendant
23 furnish you up-to-date, meaningful income expense
24 information (asset disclosure form), prior to
25 sentencing and when the defendant requests relief

1 from his current plan, end quote.

2 The Washington County Courthouse does not
3 use an asset disclosure form requiring defendants to
4 provide income and expense information prior to
5 sentencing, right?

6 A The only income information that we have
7 are pursuant to an application for court-appointed
8 counsel when OIDS is appointed, that's prior to
9 sentencing, but it's also -- we use that to
10 determine whether or not they're eligible for
11 court-appointed counsel.

12 Q So back to the question I asked you,
13 Washington County does not require defendants to
14 furnish up-to-date, meaningful income expense
15 information in an asset disclosure form prior to
16 sentencing?

17 A No.

18 Q I'm going to stop sharing my screen.
19 Have you asked any of the other judges in
20 the Washington County Courthouse, including special
21 judges, whether they've read this document that I
22 was showing you?

23 A Sir, I didn't even know that that document
24 -- I've never seen this, so no.

25 Q So I assume you've never asked clerks or

1 cost administrators whether they've read that
2 document either?

3 A Sir, I haven't seen that document, so I
4 have not asked anybody --

5 Q Have you --

6 A -- whether or not --

7 Q I'm sorry. Have you informed any of the
8 judges or special judges or other folks who work in
9 the Washington County Courthouse that they should
10 not be relying on this manual for the Administrative
11 Office of the Courts?

12 MR. PEDERSON: Object to form.

13 THE WITNESS: Sir, again, I have not seen
14 that document, nor have I read that document, so I'm
15 assuming the answer would be no. It's kind of a
16 convoluted question, but I think I know what you're
17 asking.

18 Q (BY MR. FOWLER) Have you ever instructed
19 anybody in the Washington Courthouse that they
20 should be removing this document from the Washington
21 County Courthouse?

22 MR. PEDERSON: Object to form.

23 THE WITNESS: No.

24 Q (BY MR. FOWLER) Am I right that there's no
25 other training or policy materials on file at the

1 Washington County Courthouse about Rule 8 and fines,
2 fees and costs?

3 MR. PEDERSON: Object to form.

4 THE WITNESS: Other -- other than what?

5 Q (BY MR. FOWLER) Other than -- let's do
6 this. Let's assume that this document is on file in
7 the Washington County Courthouse, whether you know
8 it or not, you've also testified that there are the
9 written procedures for the recovery of fines, fees
10 and costs that are given to defendants, outside of
11 those two documents, is there any other training or
12 policy or procedural materials in writing at the
13 Washington County Courthouse that relate to Rule 8,
14 or the recovery of fines, fees and costs or
15 assessing the ability to pay?

16 A I don't know.

17 MR. PEDERSON: Object to form.

18 THE WITNESS: I don't know.

19 MS. LAWSON: Devan, can I ask -- if it's a
20 form objection, I want to make sure I --

21 MR. PEDERSON: You said it's on file with
22 the court clerk and produced in discovery. I think
23 it was produced in response to a broad subpoena you
24 sent to the court clerk of any documents -- I don't
25 know what the exact request was, but it's not -- you

1 said, "Let's assume it's on file, whether you know
2 it or not," you know, I don't know that it's on
3 file, rather than somebody found it in a corner of a
4 vacant office from an old seminar they went to,
5 that's the objection.

6 MR. FOWLER: Devan, I understand --

7 MR. PEDERSON: That's a form objection.

8 MR. FOWLER: It's still not a form
9 objection.

10 MR. PEDERSON: And it is compound and it's
11 a form objection.

12 Q (BY MR. FOWLER) Okay. Ma'am, assume that
13 this document is on file in the Washington County
14 Courthouse.

15 A I want to stop you there. It's not on
16 file anywhere. That's not the types of things that
17 are filed at the Washington County Courthouse.

18 Q Okay. Assume it's on file somewhere in
19 the Washington County Courthouse, outside of this
20 document and the written materials that you
21 testified to that are given to defendants about
22 fines, fees and costs, are there any other written
23 training or policy materials that relate to Rule 8?

24 MR. PEDERSON: Object to form. Same
25 objection.

1 THE WITNESS: I don't know. I don't know
2 what you're asking me. Are there any other
3 documents that describe Rule 8 hearings, is that
4 basically what you're asking me?

5 Q (BY MR. FOWLER) For fines, fees or costs
6 recovery or the ability to pay, that is what I'm
7 asking you.

8 A I don't know. I really am confused about
9 what you're asking me.

10 Q When you joined the bench, were you
11 required to attend any judicial trainings?

12 A Yes.

13 Q And what were the subjects of those
14 judicial trainings when you first took the bench?

15 A I don't recall. We have a two or three
16 day judicial training conference that we had in
17 2019, due to COVID we didn't have that in person
18 training in 2020, but we have the opportunity to do
19 virtual or online training at our discretion, but I
20 don't remember the subjects of each and every one of
21 those.

22 Q The training that you participated in in
23 2019, did any of it relate to fines, fees or costs?

24 A I don't recall.

25 Q The training that you participated in in

1 2019, did any of it relate to Rule 8?

2 A I don't recall.

3 Q The training from 2019, did any of it
4 relate to assessing an individual's ability to pay?

5 A I don't recall.

6 Q You don't recall ever being trained on
7 Rule 8, fines, fees or costs, or assessing the
8 ability to pay?

9 A When you say I wasn't trained on it, I've
10 done extensive study on it, no -- so was I trained
11 by someone else, no. I don't recall whether that
12 was the subject of our judicial training in 2019 or
13 not.

14 Q You don't recall it being a subject of the
15 judicial training, fines, fees, cost, Rule 8, or
16 assessing ability to pay?

17 A No.

18 Q And there's no other training that you've
19 received from somebody else on Rule 8, fines, fees
20 or costs, or assessing ability to pay?

21 A No.

22 Q When you say you did extensive study on
23 this subject, what do you mean?

24 A I studied the statute and determined what
25 -- what is proper and what is improper and we put a

1 procedure in place to make sure we follow the
2 statute.

3 Q Have you read the constitutional cases on
4 assessing ability to pay from the Supreme Court?

5 MR. PEDERSON: Object to form.

6 THE WITNESS: What Supreme Court and what
7 constitutional cases are you referring to?

8 Q (BY MR. FOWLER) Have you read cases from
9 the United States Supreme Court that relate to
10 assessing an individual's ability to pay?

11 A No.

12 Q Are you aware of any cases from the
13 Supreme Court about the constitutional parameters of
14 assessing an individual's ability to pay?

15 A Yes.

16 Q I want to ask you about training that's
17 provided to folks who work in the Washington County
18 Courthouse. What training have you provided to
19 clerks or cost administrators about Rule 8?

20 A None.

21 Q Outside of training from you, what other
22 training have clerks or cost administrators received
23 on Rule 8?

24 A I don't know.

25 Q Are you aware of any training that clerks

1 or cost administrators have received on Rule 8?

2 A No.

3 Q What training have you provided to clerks
4 or cost administrators about assessing a defendant's
5 ability to pay?

6 A None.

7 Q What other training have clerks or --

8 A Because our clerk -- our clerks do not
9 assess a defendant's ability to pay, they don't need
10 any training, they don't do that.

11 Q You have not provided any training to
12 clerks or cost administrators about assessing a
13 defendant's ability to pay, is that right?

14 A Sir, they don't assess a defendant's
15 ability to pay, so to do any training would be --
16 no, I don't train them to do something that they
17 have no authority to do.

18 Q Have clerks or cost administrators
19 received any training outside of training from you
20 on ability to pay?

21 A They don't determine a person's ability to
22 pay, so I do not train any clerks, reporters,
23 judges, anything, on things they do not have any
24 authority to do.

25 Q I'll ask you again. What other trainings

1 have clerks or cost administrators received about
2 assessing a defendant's ability to pay?

3 MR. PEDERSON: Object to form.

4 THE WITNESS: I don't know.

5 Q (BY MR. FOWLER) You're not aware of any
6 training that clerks or cost administrators get as
7 to ability to pay assessment?

8 A No.

9 Q What training have you provided to special
10 judges about Rule 8?

11 A Well, when you say "training," sir, I
12 don't -- we don't have a formal training, but
13 there's -- we discuss how we're going to handle the
14 fines and costs docket, how we're going to handle
15 sentencing, all those types of things, but if you're
16 talking about a formal training where I give them
17 materials and hand things out, I don't do that, but
18 we discuss it and talk about how to handle those
19 procedures on a regular basis often.

20 Q Outside of these informal procedures
21 you're talking about, what other training have
22 special judges in your courthouse received on Rule
23 8?

24 A I don't know.

25 Q Have you provided special judges any

1 training on assessing ability to pay?

2 A Yes.

3 Q What training -- or what has your advice
4 been about assessing ability to pay?

5 A Our procedure is that we ask them what
6 their ability to pay is, they give us an idea what
7 they believe they can pay each month and we let them
8 choose their monthly payment.

9 Q So your training to the special judges is
10 telling special judges to ask defendants what they
11 can pay each month?

12 A They -- when you say "special judges," we
13 have one special judge that is in charge of the
14 fines and costs docket, so I don't give training to
15 judges on that, we just have one judge that does
16 that. Our procedure is we verbally talk to the
17 defendants about what their ability to pay is, we
18 ask them questions, appropriate questions based on
19 the answers they give us, and ask them what they
20 believe, based on their budget, can they pay towards
21 their fines, fees and costs on a monthly basis.

22 Q So the training and advice you've given to
23 the one special judge who handles fines, fees and
24 costs is to ask defendants what they can pay each
25 month in terms of assessing ability to pay?

1 A That's not the only thing they ask. They
2 ask about their job, their family, their children,
3 medical bills, a variety of things that they ask. I
4 don't know every individual question that they ask
5 there is no written set of questions. We ask
6 questions based upon the answers that they give us.

7 Q I'm asking you, what have you told special
8 judges that they should be asking, what have you
9 told the one special judge who assesses or handles
10 fines, fees and costs?

11 A I don't tell him what specific questions
12 to ask.

13 Q How do you supervise special judges in the
14 courthouse to assure they're complying with the
15 rules, statutes and the constitution at sentencing
16 hearings?

17 A How do I -- would you repeat that
18 question?

19 Q How do you supervise special judges to
20 ensure that they're complying with the rules,
21 statute and the constitution at sentencing hearings?

22 A I don't -- I don't micromanage their
23 dockets, I don't micromanage their sentencing, I
24 have the confidence in my special judges that they
25 are going to follow Oklahoma law. We discuss it

1 often as to what our procedures are and what they're
2 required to do under the statutes and I have every
3 confidence that they follow those.

4 Q Do you sit in and watch in the special
5 judges' sentencing hearings to make sure that they
6 are complying with the governing rules, statutes and
7 constitutional limitations?

8 A I do not.

9 Q How do you supervise special judges to
10 ensure that they're complying with the rules,
11 statute and constitution, or constitutions, in
12 presiding over the cost dockets?

13 A I don't sit in on the cost docket. It's
14 the same answer I gave you; Judge Sigler and I --
15 Judge Sigler, of course, is the judge that does the
16 fines and costs docket, he and I discuss often our
17 procedures and what we do and how we do it and he is
18 very well qualified to do that and I trust that he
19 does those and follows Oklahoma law.

20 Q Do you pull recordings or transcripts from
21 hearings from special judges just to check in to
22 make sure in your supervisory role that they are, in
23 fact, complying with the governing rules and
24 statutes and constitutional limitations?

25 A I do not.

1 Q Do you ever observe courthouse staff, like
2 clerks or cost administrators, to observe their
3 interactions with defendants when setting up
4 installment plans, for example?

5 A No.

6 Q Do you ever pull select documents from the
7 court clerk's office or the cost administrator's
8 office to see what's going on as a general matter,
9 or in any specific cases?

10 MR. PEDERSON: Object to form.

11 THE WITNESS: I don't understand that
12 question.

13 Q (BY MR. FOWLER) You said you don't observe
14 interactions between clerks or cost administrators
15 and defendants, do you ever pull documents from the
16 clerk or cost administrator's offices to see what
17 their practices are in creating installment plans or
18 recording what defendants tell them?

19 A No.

20 Q Does anybody -- when you joined the bench,
21 did you have Judge Sigler come in and watch you
22 handling your cost docket and ask him to --

23 A Sir, I don't do a cost docket in
24 Washington County, no.

25 Q I know. Did you ask him to come in and

1 watch your cost docket in Nowata County to watch the
2 district judge conduct these cost dockets?

3 A When I first took the bench in Nowata
4 County I did not do the cost docket, so I took that
5 over, and I don't remember exactly when, sometime in
6 my first year, but no, I can't require Judge Sigler
7 to go to Nowata County, he has no -- no.

8 Q Do any other judges come in and watch how
9 you handle your cost docket in Nowata County?

10 A No.

11 Q I want to ask you about bench cards. What
12 is a bench card?

13 A A bench card, or the bench cards that I'm
14 familiar with are, I guess an outline might be a
15 good way to put it, of how a -- how a particular
16 judge has found is a good way to handle whatever it
17 is that bench card might be about, whether it's
18 about direct contempt, indirect contempt, could be
19 fines and costs, could be -- there's just a variety
20 -- interpreters, there's a variety of things that
21 individual judges might put together that they have
22 found to be an appropriate procedure for their
23 courtroom.

24 Q So what are some of the subjects that some
25 Washington County judges or special judges have

1 bench cards on?

2 A I don't -- I don't use bench cards, so I
3 don't know what the other judges have that they
4 might use, but I don't use a bench card.

5 Q When you said some of the subjects that a
6 bench card could be about, like contempt or an
7 interpreters or fines fees cost, have you seen bench
8 cards on an interpreters or fines fees or costs?

9 A Yes.

10 Q Inside the Washington County Courthouse?

11 A Most of them have been e-mailed to me from
12 other judges.

13 Q Have you gotten any bench cards from your
14 colleagues in the Washington County Courthouse,
15 judges or special judges, that contain bench cards?

16 A Have I gotten any bench cards that
17 contain bench cards?

18 Q Have you gotten any communications from
19 judges or special judges that contain bench cards
20 from Washington County?

21 A No.

22 Q Okay. Does Washington County -- does any
23 Washington County judge have a bench card on
24 handling sentencings?

25 A I don't know.

1 Q Does any Washington County judge have a
2 bench card on handling fines, fees and costs?

3 A I don't know.

4 Q Does any Washington County judge have a
5 bench card on handling Rule 8 hearings?

6 A I don't know.

7 Q Your attorneys from the Office of the
8 Attorney General in this case indicated that
9 Washington County has bench cards related to these
10 subjects, but they were being withheld in discovery
11 because they weren't yet finalized and they were in
12 draft form. Since your attorneys made that
13 statement over a year ago, has Washington County
14 finalized its bench cards on these subjects?

15 MR. PEDERSON: Object to form. Misstates
16 counsel's representation.

17 You can answer.

18 THE WITNESS: We have not developed nor
19 finalized any bench cards that I am aware of. The
20 judges at Washington County have not developed,
21 refined, finalized any bench card.

22 Q (BY MR. FOWLER) So your testimony is that
23 you have no knowledge of any draft bench cards that
24 relate to these subjects of sentencing, fines, fees
25 costs or Rule 8?

1 MR. PEDERSON: Object to form.

2 THE WITNESS: You're asking -- sir, I
3 don't understand your question, but it appears to me
4 you're asking two separate questions. One, you
5 asked me if any Washington County judges have done
6 that and now you're asking me am I aware of any.
7 Yes, I am aware that another judge in another county
8 sent out a draft form in an email, and I haven't
9 seen it in months, I don't know whether it was ever
10 finalized and when I -- when you say "finalized,"
11 I'm unsure of what you mean.

12 Q (BY MR. FOWLER) Okay. Well, let's talk
13 about that email that you got with a draft bench
14 card. Did that judge ever email out an updated
15 bench card, saying, "Fellow Judges, I've finalized
16 what we're doing in my courthouse"?

17 A Not to me, he didn't.

18 Q Did you ever talk about that draft bench
19 card with your fellow judges in Washington County,
20 about how it might relate to Washington County's
21 handling of fines, fees or costs of Rule 8?

22 A No.

23 Q I want to ask you about some of the
24 changes that were made to Washington County
25 procedures in the last few years. After you became

1 district judge, the courthouse implemented some
2 changes related to fines, fees and cost and cost
3 docket hearings, right?

4 A Yes.

5 Q What were the changes that were
6 implemented?

7 MR. PEDERSON: Just the ones since she
8 became judge, or the ones before she became judge?

9 Q (BY MR. FOWLER) What were the changes that
10 were implemented -- well, what changes are you aware
11 that were implemented in the last three years that
12 relate to fines, fees and costs and cost docket
13 hearings?

14 A Well, I don't know what the -- actually,
15 the changes are, because I don't know what the
16 policy was before, before I took the bench. We work
17 together, like I said, Judge Vaclaw, Judge Sigler
18 and myself work together to put a procedure in place
19 that we would follow with respect to fines, fees and
20 costs and that has been refined over the months and
21 I -- so it's a pretty broad subject, so I'm not
22 exactly sure what you're asking me. I don't know
23 what the changes are because I don't know what was
24 the policy before, but I looked at the statutes and
25 we formed a procedure that we would follow.

1 Q You were present for the deposition of
2 former Judge DeLapp, right?

3 A I actually was not present, I did -- I was
4 able to listen to it, yeah, I listened to it.

5 Q So --

6 A I listened to parts of, I'll put it like
7 that.

8 Q Judge -- former Judge DeLapp testified
9 about the policies and procedures that related to
10 fines, fees and costs in Rule 8, right?

11 A I don't know, I didn't listen to the whole
12 thing. I was traveling at the time and so I was not
13 able to listen to the entire thing.

14 Q To create a policy, you have to know what
15 the old policy is?

16 A I didn't create a policy. We have certain
17 procedures that we follow. Our policy is written in
18 the Oklahoma statutes, that's what we do.

19 Q To create a procedure, you have to know
20 what the old procedure was?

21 A No.

22 Q Judge DeLapp promulgated written documents
23 that describe the procedure under his tenure as
24 district judge, right?

25 A I don't know.

1 Q Have you reviewed the documents that the
2 office of the attorney general disclosed in
3 discovery that relate to fines, fees and costs prior
4 to your tenure?

5 A No.

6 Q Who was involved in making this procedure
7 outside of you, Judge Sigler and Judge Vaclaw?

8 A No one.

9 Q What made you develop a procedure on
10 fines, fees and costs?

11 A That's part of my job.

12 Q What was the problem with the old
13 procedure?

14 A One, I didn't know what the old procedure
15 was and -- but I was aware that there were numerous
16 warrants for failure to pay, or failure to appear
17 and pay, and we kind of started there. I'm not
18 exactly sure what we did first, what was first, but
19 immediately after I took office we began to recall
20 those -- I began to recall those warrants for
21 failure to pay or failure to appear and pay, and
22 then reissue appropriate warrants in, I don't know,
23 two, 300 cases, I'm not sure how many.

24 Q How long after you took the bench did you
25 start implementing this procedure and, for example,

1 recalling warrants for failure to pay?

2 A Within the first six months.

3 Q When you were campaigning for this job,
4 you criticized Curtis DeLapp about how he ran the
5 courthouse.

6 A I don't -- I wouldn't necessarily use the
7 word "criticize," I just didn't agree with it.

8 Q What did you disagree with about the
9 policies that were in place or created by former
10 Judge DeLapp?

11 A I didn't know what the policies that were
12 in place, nor did I know the procedures created by
13 Judge DeLapp, so I didn't criticize his policies and
14 procedures.

15 Q What did you disagree with?

16 A I disagreed with his demeanor and his --
17 his demeanor in the courtroom, his what, I believe
18 to be disrespectful treatment of attorneys and
19 witnesses and jurors and defendants in the
20 courtroom.

21 Q Your testimony is that you're not aware of
22 the procedures that were in place prior to your
23 taking the bench, that's your testimony today?

24 A Are you talking --

25 Q On fines, fees and costs and Rule 8?

1 A No, I don't know what that procedure was.

2 Q So I want to ask you about Exhibit A, so
3 I'm going to share my screen again. Exhibit A is a
4 copy of 22 Oklahoma Statute, Section 983a, labeled:
5 "Authority to Waive Fines, Costs and Fees," right?

6 A Yes.

7 Q This appears to be a fair and accurate
8 copy of this statute, right?

9 A It appears to be, yes.

10 Q This law was effective November 1st, 2016,
11 correct?

12 A Yes.

13 Q And this statute permits judges, under
14 Section A, to waive all outstanding fines, court
15 costs and fees in a criminal case under certain
16 circumstances, right?

17 A Correct.

18 Q So I'm going to stop sharing my screen.

19 Do you periodically review cases that you
20 presided over in a criminal capacity to see if
21 anybody is eligible for relief under Section 983a?

22 A No.

23 Q Do you instruct special judges to
24 periodically review their cases to see if defendants
25 are eligible for relief under Section 983a?

1 A No.

2 Q At sentencing do you inform defendants
3 that they may be eligible to get complete waiver of
4 fines, fees and costs under Section 983a?

5 A No.

6 Q I'm going to share my screen and show you
7 Exhibit DD, as in dog. Exhibit DD is 22 Oklahoma
8 Statute Section 983b, labeled, "Released persons
9 hearing to ability," excuse me, "hearing to
10 determine ability to pay fines, costs and fees,"
11 right?

12 A That's what it purports to be, yes, sir.

13 Q I'm going to scroll down to the bottom.
14 This appears to be a fair and accurate copy of
15 Section 983b, right?

16 A Can you scroll down to just the credits
17 page? Yeah, I -- it does.

18 Q 983b also became effective on
19 November 1st, 2016, right?

20 A Yes.

21 Q And 983b, among other things, requires,
22 essentially, deferring determination of a
23 defendant's fines, fees and costs until at least 180
24 days after they are released from the Department of
25 Corrections; correct?

1 A Yes.

2 Q Washington County did not start
3 implementing 983b in 2016, right?

4 A I don't know.

5 Q Washington County didn't start
6 implementing 983b in the first few months when you
7 took the bench, right?

8 A Wrong. It's always been 180 -- since I
9 took the bench it's been 180 days.

10 Q Right. But Washington County was having
11 individuals report back to the courthouse within 72
12 hours of their release, those were the stock forms
13 that the entire courthouse was using, right?

14 A I don't know what was used before I took
15 the bench, but immediately after taking the bench I
16 changed those forms.

17 Q When?

18 A Within the first few weeks. I don't -- I
19 don't know when the exact date of when, but there's
20 never been a time that I have sentenced somebody
21 that I did not inform them that they had 180 days
22 after release. In fact, their order to appear back
23 on the 181st business day after their release from
24 DOC, there's never been a time that I've ordered
25 anybody to do anything different from that.

1 Q Your testimony is that you made the
2 decision to change the stock forms across the
3 courthouse?

4 A I did.

5 Q I stopped sharing my screen.

6 Is there any written administrative order
7 that relates to the timing of the assessment of a
8 defendant's ability to pay fines, fees and costs?

9 A Not that I'm aware of.

10 Q Are there any written procedures, outside
11 of the documents that you said are given to
12 defendants, that relates to the timing of scheduling
13 a hearing to assess a defendant's ability to pay?

14 A I believe our plea form says that, if your
15 financial situation changes, you can ask for a Rule
16 8 hearing, but it sets forth their -- their ability
17 to request a Rule 8 hearing in the plea form itself.

18 Q So outside of the documents given to a
19 defendant, are there any written procedures related
20 to fines, fees and costs or assessing ability to
21 pay?

22 A Not that I'm aware of.

23 Q I want to ask you about some of the
24 presentations that you talked about that were given
25 to the Rotary Club and Leadership Bartlesville.

1 Since taking the bench, you've given public
2 presentations that touch on the topic of fines, fees
3 and costs, right?

4 A Yes.

5 Q And you said that you have those two
6 presentations also in front of you, the Rotary
7 presentation and the Leadership Bartlesville
8 presentation?

9 A I have my outline.

10 Q You have the outline from those two
11 presentations in front of you?

12 A I do.

13 Q Okay. I'm going to share my screen as
14 well. I'm showing you Exhibit MM, as in Mary. This
15 is your outline from the Rotary Club presentation,
16 right?

17 A Correct.

18 Q And I'll scroll down to the bottom. This
19 PDF is a fair and accurate copy of the outline for
20 the presentation you gave to the Rotary Club?

21 A It appears to be, yes.

22 Q This was authored by you, right?

23 A My understanding is my attorney gave that
24 to you. Yeah, I'm assuming that's where you got it.

25 Q Ma'am, you wrote this document, that's my

1 question?

2 A Oh, I did, yes, absolutely wrote this
3 document.

4 Q Got it. I'm going to show you page 4,
5 going to page 5.

6 A Uh-huh.

7 Q Subsection G, as in George, at the bottom
8 of page 4 indicates that, quote, Rule 8 hearings are
9 now routinely conducted at the request of the
10 defendant who wants the court to reconsider his or
11 her payment order, end quote.

12 A Yes.

13 Q Is that a fair statement of current
14 courthouse policy?

15 A Yes.

16 Q Washington County does not conduct Rule 8
17 hearings without a request from the defendant?

18 A Correct.

19 Q I'm going to show you Exhibit --

20 A Well, let me back up a little bit. At
21 sentencing -- at sentencing we don't say, "Now we're
22 going to have your Rule 8 hearing," but at
23 sentencing we do ask defendants about their ability
24 to pay fines, fees and costs, so I don't know if you
25 call that a Rule 8 hearing or not, but we certainly

1 ask them that at their sentencing, so...

2 Q I'm going to show you Exhibit KK, which is
3 a copy of rule 8.1. Do you see KK on the screen?

4 A I do. Well, I see 8.1, Judicial Hearings,
5 on the screen.

6 Q This appears to be a fair and accurate
7 copy of Rule 8.1?

8 A It appears to be.

9 Q Rule 8.1 doesn't require a request from
10 the defendant to have a Rule 8 hearing; correct?

11 A Well, that's at judgment and sentence and
12 we do those at judgment and sentence, but...

13 Q Rule 8.1 doesn't require a request from a
14 defendant to have a Rule 8 hearing; correct?

15 A No, it doesn't require the defendant to
16 request a Rule 8 hearing. They get their Rule 8
17 hearing at judge -- at the time of judgment and
18 sentence in accordance with this statute. We assess
19 their ability to immediately satisfy the fines, fees
20 and costs at judgment and sentence.

21 Q And your answer to my question was, no,
22 rule 8.1 does not require a request from a
23 defendant; correct?

24 A No, not at judgment and sentence.

25 Q I'm going to show you Exhibit LL. LL is

1 Rule 8.5, Inability to Pay Installments Because of
2 Physical Disability or Poverty; correct?

3 A Yes.

4 Q This appears to be a fair and accurate
5 copy of Rule 8.5?

6 A It appears to be, but that was an awfully
7 fast scroll, but it does appear to be.

8 Q Okay. Well, let me do it again. It's
9 just one page, I'll scroll to the bottom.

10 Does that appear to be a fair and accurate
11 copy of Rule 8.5?

12 MR. PEDERSON: Yeah, you -- yeah, just
13 hold it up there one second. Yeah, that's good.

14 THE WITNESS: It appears to be an accurate
15 copy that was printed off of West Law, yes.

16 Q (BY MR. FOWLER) And Rule 8.5 provides that,
17 if a defendant, because of disability or poverty,
18 cannot immediately pay, or pay in installments, he
19 or she must be relieved of the fine and/or cost or
20 be required to report back to the court when he or
21 she can make progress towards paying it off, right?

22 A Correct.

23 Q 8.5 does not require a request from a
24 defendant either; correct?

25 A No.

1 Q The statute indicates that the court must
2 relieve or must require the defendant to report back
3 to the court; correct?

4 A Yes.

5 Q Okay. I'm going to go back to Exhibit JJ,
6 the Rotary presentation -- nope, I'm wrong on that.
7 Give me one second.

8 Exhibit MM, as in Mary, and do you see MM
9 on screen again?

10 A I do.

11 Q I'm going to ask you to take a look at
12 page 5 of MM, the fourth bullet point down that
13 begins with, "Eliminate."

14 A Uh-huh.

15 Q In your outline for that presentation it
16 indicates that one option for judges is to eliminate
17 it all together when circumstances of extreme
18 hardship, right?

19 A Correct.

20 Q Meaning that an option for judges is to
21 eliminate fines, fees and costs all together when a
22 defendant is in circumstances of extreme hardship,
23 right?

24 A Yes.

25 Q What does "extreme hardship" mean?

1 MR. PEDERSON: Object to form.

2 THE WITNESS: This is my outline and I
3 didn't read this verbatim to the Rotary Club. This
4 is my outline so that it would remind me to say the
5 things that I wanted to say at that time. Do you
6 want to know what I believe to be extreme hardship
7 --

8 Q (BY MR. FOWLER) Yes.

9 A -- or just --

10 Q What does extreme hardship mean to you?

11 A Okay. It can be a variety of things, we
12 might be here until noon just me listing the things,
13 but anything that would create a situation where --
14 extreme, in my mind extraordinary, that would be the
15 definition of extreme, beyond normal, significantly
16 beyond normal. Extreme hardship would be beyond
17 normal difficulty to pay those, so there's a variety
18 of things that would cause me to believe that a
19 defendant had a beyond normal situation that would
20 -- I would categorize as extreme hardship.

21 Q And that's the policy that you implement
22 in determining whether to waive completely fines,
23 fees and costs in Washington County or Nowata
24 County?

25 A What do you mean, that's the policy?

1 Q When you're a judge and you're making a
2 decision about whether to completely eliminate it
3 all together, you determine, and you will only do
4 that if you find circumstances of extreme hardship,
5 is that right?

6 A I'm trying to -- I'm really trying to run
7 through your question to make sure I understand it.
8 I will -- are you asking me if I will eliminate a
9 defendant's fines, fees and costs all together if I
10 find that there is an extreme hardship?

11 Q Correct.

12 A Not always.

13 Q Why not?

14 A Well, if it's a temporary extreme
15 hardship, then I will delay their payment, waive it
16 for a period of time, have them come back in six
17 months or an appropriate amount of time to reassess
18 their ability to pay. If it's a permanent extreme
19 hardship, yes, and I -- yes, and I've done that,
20 I've done both of those.

21 Q So your policy is to eliminate fines, fees
22 and costs all together only if there are
23 circumstances of extreme hardship of a certain type,
24 is that fair to say?

25 MR. PEDERSON: Object to form.

1 THE WITNESS: Sir, if I -- after
2 discussing with the defendant what their life
3 situation is, if I determine that their extreme
4 hardship is permanent, whether that be by
5 disability, by poverty, extraordinary medical bills,
6 a variety of things that I take into consideration,
7 did their house burn down last week, just a variety
8 of things that I will take into consideration, if it
9 is appropriate under my judgment to waive the
10 entirety of their fines, fees and costs, I do that.
11 If it is appropriate under my discretion that they
12 come back in six months and let me reassess their
13 financial situation, I order them to come back.
14 It's all individualized in everybody's individual
15 circumstance.

16 Q (BY MR. FOWLER) Fair to say that your
17 policy would be not to eliminate fines and fees all
18 -- let me start over.

19 Fair to say that it's your policy not to
20 eliminate fines, fees and costs all together,
21 unless, at the very least, there are circumstances
22 of extreme hardship?

23 MR. PEDERSON: Object to form. Asked and
24 answered.

25 THE WITNESS: Well, and I just want to

1 add, unless it falls under 983a, if it falls under
2 983a we do, we absolutely do.

3 Q (BY MR. FOWLER) So your answer to my
4 question is: I would not eliminate all together a
5 defendant's fines, fees and cost unless there are at
6 least circumstances of extreme hardship or unless
7 the defendant falls under section 983a, right?

8 MR. PEDERSON: Object to form. Asked and
9 answered.

10 THE WITNESS: Again, I'm not sure what
11 you're asking me. We follow the statute,
12 disability, poverty and any other circumstances
13 which create a situation where a defendant does not
14 have the ability to pay.

15 Q (BY MR. FOWLER) I'll just ask you yes or
16 no. You would not waive a defendant's fines, fees
17 and costs all together unless, at the very least:
18 One, there were circumstances of extreme hardship;
19 or, two, they qualified under the statutory
20 requirement also of 983a?

21 A Or three, any other statutory requirement
22 allowing the waiver of fines, fees and costs.

23 Q So the answer to my question is, no, you
24 wouldn't -- I mean, you know how this works, I need
25 a "yes" or "no."

1 A I'll tell you -- let me tell you, sir, I
2 don't know until that person is standing in front of
3 me and gives me their life situation and whether
4 I -- after hearing everything that I hear from them,
5 I can discern whether that is, in fact, a situation
6 upon which I should either reduce their fines, fees
7 and costs, reduce their monthly payment, delay their
8 monthly payment, or eliminate their payment all
9 together, and I can't tell you what I would or would
10 not do in the future, I just can't tell you.

11 Q What statute requires a finding of extreme
12 hardship to eliminate all together a defendant's
13 fines, fees or costs?

14 A Sir, again, I would tell you this was my
15 -- my outline to lay people, this was not an outline
16 that -- of a presentation that I gave to lawyers or
17 to judges, to lay people that were interested in how
18 we're doing fines, fees and costs.

19 Q I'll ask my question again. What statute
20 or rule or constitutional provision requires a
21 finding of extreme hardship to eliminate all
22 together a defendant's fines, fees or costs?

23 A Well, I think -- I can't give you the
24 exact number, but the -- those that fall under the
25 Rule 8 hearing, whether we find a disability or

1 poverty, you can do that.

2 Q I'm going to share my screen again and
3 show you Exhibit NN, which is your Leadership
4 Bartlesville outline presentation.

5 A Yes.

6 Q I'll scroll to the bottom, it looks like
7 it's three pages. This is a fair and accurate copy
8 of the presentation notes that you have from the
9 Leadership Bartlesville presentation?

10 A Yes, it appears to be.

11 Q And this presentation notes, this set of
12 notes is it dated January 9th, 2020; correct?

13 A Yes.

14 Q And this is about a year after you gave
15 the presentation to the Rotary Club?

16 A About six months afterwards.

17 Q Okay. And if you take a look at page 3,
18 under B, the four bullet points that appear there,
19 beginning, "Make, reduce, defer or eliminate," those
20 are identical to the bullet points that appeared in
21 your presentation six months earlier, right?

22 A Right.

23 Q These notes, this outline, was also
24 created by you, you wrote this document?

25 A I did.

1 Q I'll stop sharing my screen.

2 Have you conducted any other trainings or
3 presentations beyond the one given to the Rotary
4 Club or Leadership Bartlesville, that address fines,
5 fees and costs, Rule 8 or ability to pay?

6 A No.

7 MR. FOWLER: I would propose that we take
8 a five minute break now, if that works for folks.

9 MR. PEDERSON: That's fine.

10 MR. WILLIFORD: That's fine with me.

11 MR. FOWLER: Okay. See y'all in a few.

12 (Break taken from 10:50 a.m. to 11:00
13 a.m.)

14 Q (BY MR. FOWLER) I want to ask you some
15 questions about how you handle sentencing hearings.
16 During a sentencing hearing you don't disclose to
17 the defendant the total of his fines, fees or costs;
18 correct?

19 A I do disclose that to defendants. I give
20 -- I give them an estimated amount of money that
21 they owe in fines, fees and costs, yes, I do.

22 Q Well, Judge Sigler testified that he
23 informs defendants that they will have some fines
24 and costs without an exact amount, is that your
25 practice?

1 A Are you asking me the same question again?
2 Because that's -- I just told you I do advise the
3 defendants of their total fines, fees and costs.

4 Q The costs are not calculated at the
5 sentencing hearing; correct?

6 A They're -- they are calculated at the --
7 they are calculated on an ongoing basis, they're on
8 the computer and I pull up the case on the computer,
9 look at their court costs that are associated with
10 their case, I add that to the fine that may be
11 assessed and they -- if they have an OIDS attorney,
12 I assess a \$250 OIDS fees, most of the time,
13 sometimes it's a hundred, depending on what kind of
14 case it is, and I also will assess, when
15 appropriate, a victim compensation assessment and
16 then I add those together, sometimes I can do it in
17 my head and sometimes I do it with a calculator, and
18 then I advise them that they will also be assessed a
19 \$38 a day jail incarceration fee. Sometimes they
20 know the exact number of days -- number of days
21 they've been in jail, sometimes they know an
22 approximate number, we do the math and I tell them,
23 "Here's approximately what you'll owe."

24 Q Is that a written form that adds up their
25 total of fines, fees and costs at sentencing?

1 A Not at sentencing.

2 Q When do defendants get the form?

3 A You mean on a piece of paper?

4 Q Correct.

5 A You mean on a piece of paper?

6 Q Do you give defendants a written summary

7 of -- could I finish the question?

8 At sentencing --

9 MR. PEDERSON: You're breaking up, that's
10 why she's --

11 Q (BY MR. FOWLER) At sentencing do you give
12 defendants a written summary -- can you hear me now?

13 MR. PEDERSON: You're breaking -- okay.
14 Try one more time.

15 THE WITNESS: Sir, you're breaking up, so
16 I can't tell when you're finished or not finished.

17 Q (BY MR. FOWLER) Can you hear me now?

18 A Yes, sir.

19 Q You don't disclose to defendants at
20 sentencing a written total of their fines, fees and
21 costs that itemizes their fines, fees and costs?

22 A I do not. That's attached to their
23 judgment and sentence and they get that at a later
24 time. They don't get their judgment and sentence at
25 the time of their sentencing, that's a form that's

1 filled out later pursuant to the, either plea
2 agreement or the sentencing hearing.

3 Q So you don't approve the total amount of
4 fines, fees and costs until some time after the
5 sentencing hearing; correct?

6 A I assess -- I assess fines, fees and costs
7 at the sentencing hearing and then it's written down
8 on a piece of paper that's attached to the judgment
9 and sentence.

10 Q You know what Attachment A is, right?

11 A I do.

12 Q Attachment A is the order imposing the
13 fines, fees and costs, right?

14 A It's the written order, but the order --
15 the order itself is imposed at the time of
16 sentencing.

17 Q At the time of sentencing, you have not
18 finalized the total of fines, fees and costs, right?

19 A I do not, yes. I do not -- I do not
20 finalize that.

21 Q Attachment A is not typically signed by
22 you that itemizes the total of fines, fees and costs
23 until sometime after the sentencing hearing?

24 A Correct.

25 Q How is the total amount of fines, fees and

1 costs calculated?

2 A Well, they take the court costs -- the
3 court clerk's -- clerk does it. I don't know the
4 individual break down of the fine itself. Our
5 legislature sets the court costs that the court
6 clerk has to assess, filing fee, those types of
7 things, so you take the court costs, the fine that's
8 imposed upon the defendant, any type of assessment,
9 such as a VCA, and the jail incarceration fees, and
10 they fill in the blanks and add it up at the bottom.

11 Q When you say your court clerk does that,
12 are you referring to your minute clerk?

13 A No.

14 Q Who is the clerk that would do that
15 calculation at getting to the total amount of fines,
16 fees and costs, as well as the itemized amount?

17 A Do you mean the one that actually writes
18 it on the piece of paper or -- I don't -- I guess
19 I'm confused as to what you're asking me.

20 Q So you just said you yourself don't do the
21 total adding it all up or itemization, that a clerk
22 does it, so I'm asking you, what clerk are you
23 referring to that fills out the form and does the
24 total and the itemization?

25 A Those fines, fees and costs are generated

1 by the computer, pursuant to what the actual costs
2 in that case are. The minute clerk -- typically, if
3 I were doing the sentencing it's my minute clerk,
4 not always, but typically it would be my minute
5 clerk, and she would take that from the computer,
6 fill in the form, add the jail incarceration -- jail
7 incarceration fees, VCA -- actually, the jail
8 incarceration fees are not on Attachment A, as far
9 as I know, that comes once the jail gives us those
10 jail incarceration fees, but at sentencing is when I
11 tell the -- when I impose those fines, fees and
12 costs upon a defendant and tell them what the amount
13 is. And when I say the approximate amount, I'm
14 talking within just a matter of dollars.

15 Q When did you start doing that, disclosing
16 your estimate?

17 A Oh, I don't -- I don't know. I've done it
18 at sentencing, maybe not the first sentencing I did,
19 but shortly after I took the bench.

20 Q Who is your minute clerk right now?

21 A Halee Lawrence, and that's in Nowata, I
22 don't have a minute clerk in -- excuse me, that's in
23 Washington County. In Nowata County, it's just the
24 court clerk.

25 Q When do you sign Attachment A in relation

1 to the sentencing hearing?

2 A Usually within -- I would say usually
3 within a week.

4 Q When you're signing -- I'm sorry, go
5 ahead.

6 A The -- once -- once the defendant is
7 sentenced, then the judgment and sentence is then
8 filled out in accordance with the sentencing, and
9 once that's filled out, then it's sent up to my
10 office and I review it and sign it.

11 Q The defendant's not present when you're
12 signing Attachment A?

13 A No.

14 Q Nor is the defendant's attorney?

15 A No.

16 Q It's OIDS practice to ask to be relieved
17 from a case at the sentencing hearing, right?

18 A I don't know what their practice is.

19 Q Well, you presided over a lot of
20 sentencing, I assume, right?

21 A Yes.

22 Q More often than not OIDS asked to be
23 relieved from representation and you approve that at
24 the sentencing hearing?

25 A No.

1 Q Prior to the total of fines and -- fines,
2 fees and costs being imposed on defendants, you
3 don't regularly ask about child support obligations?

4 A No.

5 Q Prior to the total of fines, fees and
6 costs being imposed on a defendant, you don't ask
7 about court debts from other cases outside of
8 Washington County?

9 A No.

10 Q Prior to the total of fines, fees and
11 costs being imposed, you don't ask about their
12 dependents?

13 A Sometimes I do.

14 Q Prior to fines, fees and costs being
15 imposed, you don't regularly, as a matter of course,
16 ask about dependents?

17 A Ask that question again.

18 Q Prior to the total of fines, fees and
19 costs being imposed, you don't regularly ask
20 defendants about their dependents, number of
21 dependents?

22 A No. Sir, keep in mind that the vast
23 majority of sentencing judgment -- or sentencings
24 that we do are pursuant to a plea agreement and part
25 of the plea agreement that defendants reach with the

1 district attorney's office is the amount of the fine
2 that's imposed upon them. The court costs are set
3 by statute, the fee -- or excuse me, the fine, the
4 defendant agrees to pay and so when I do a
5 sentencing I will talk to them about, "As part of
6 your plea agreement, you agree to pay this X number
7 of dollar in fine," and they typically answer "yes,"
8 and there's some other questions that follow, but
9 it's part of a plea agreement, so they've agreed to
10 pay that amount of fine.

11 Q You just said court costs are not part of
12 plea agreements, the number attached to court costs,
13 the amount is not part of plea agreements; correct?

14 A No, what I said was the fine -- the
15 defendant agrees to pay the fine and the VCA and the
16 OIDS fee, they agree to that, fines are -- excuse
17 me. Court costs are set by statute, I have no
18 control over the court costs.

19 Q Well, we just looked at Rule 8.1 that
20 talks about waiver of fines and costs, right?

21 Prior to the total of fines, fees and
22 costs being imposed, you don't regularly ask
23 defendants about how far they went in school?

24 A Yes, I do.

25 Q Prior to --

1 A I always do. I always do.

2 Q You always ask about education?

3 A Every time, yes, sir.

4 Q Because that's part of your plea of
5 colloquy to make sure it's a valid plea, is that
6 right?

7 A Yes.

8 Q What about when somebody's lost at trial,
9 do you ask those defendants, prior to imposing total
10 fines, fees and costs, how far they went in school?

11 A No.

12 Q Prior to imposing the total of fines, fees
13 and costs, you don't regularly ask defendants their
14 hourly wage?

15 A Sometimes I do.

16 Q Prior to imposing the total of fines, fees
17 and costs, you don't regularly ask about defendant's
18 hourly wage?

19 A Didn't he ask me that already?

20 Is that the same question you just asked
21 me?

22 MR. PEDERSON: He added the word
23 "regularly," I think.

24 THE WITNESS: Sometimes I do.

25 Q (BY MR. FOWLER) I'm asking you, you don't

1 regularly ask about a defendant's hourly wage prior
2 to assessing the total of fines, fees and costs?

3 A I do it when it's appropriate. Do I every
4 time? Probably not, if it isn't appropriately. I
5 don't know what you mean by "regularly." I
6 regularly ask that question if it's the appropriate
7 question to ask.

8 Q What makes it appropriate?

9 A It could be a variety of things, and like
10 I said earlier, I look at every individual defendant
11 and ask those questions that need to be asked,
12 pursuant to whatever their situation is.

13 Q Prior to imposing the total of fines, fees
14 and costs, you don't regularly ask about whether the
15 defendant gets food stamps?

16 A No.

17 Q Prior to imposing fines, fees and costs,
18 you don't regularly ask about whether a defendant is
19 on social security, on disability?

20 A No.

21 Q Prior to imposing the total of fines, fees
22 and costs, you don't regularly ask defendants about
23 their receipt of other government benefits, either
24 from the state, the municipality, the county or the
25 federal government?

1 A No.

2 Q Prior to imposing the total of fines, fees
3 and costs, you don't review defendant's affidavit of
4 indigence, provided they were appointed an attorney
5 earlier in the case?

6 A Excuse me, I didn't hear the question.

7 Q Prior -- okay. Prior to imposing the
8 total of fines, fees and costs, you don't regularly
9 go back and review a defendant's affidavit of
10 indigency?

11 A If they have one I don't go back and
12 review it, but I've reviewed it up front.

13 Q So, no, you don't regularly review the
14 affidavit of indigency in preparation for a
15 sentencing, prior to imposition of the fines, fees
16 and costs, right?

17 A No, sir.

18 Q And if this wasn't your case to begin
19 with, for example, a special judge was at the
20 preliminary hearing or earlier proceedings, you're
21 not the one who made the decision to appoint an OIDS
22 or other attorney to represent somebody, right?

23 A I appoint -- it is my decision to appoint
24 OIDS attorneys on every felony case and Judge
25 Sigler's decision to appoint attorneys on every

1 misdemeanor case, Judge Vaclaw appoints attorneys if
2 it happens to be a drug court case, and I appoint
3 attorneys on mental health court cases and, there
4 are occasions when one of us will take on the duties
5 of the other if that -- that judge is not available
6 at the time, but for the most part, that's the
7 assignment.

8 Q When you're presiding over a cost docket,
9 you don't regularly ask defendants about their child
10 support obligations?

11 A My Nowata cost docket?

12 Q Correct.

13 A I do, I absolutely do.

14 Q Have you watched Judge Sigler's cost
15 dockets?

16 A No.

17 Q You have no idea about whether -- what his
18 policies are at his cost dockets?

19 A I know what his procedures are, I don't --

20 Q Okay. We're -- I wasn't there myself,
21 were you there when Judge Sigler provided his
22 deposition testimony?

23 A Yes.

24 Q You heard him testify about his policies,
25 right?

1 A I heard him tell -- I heard him testify
2 about his procedures.

3 Q Okay. You heard him testify about his
4 procedures in presiding over cost dockets; correct?

5 A Correct.

6 Q You heard him testify that he does not
7 regularly ask about those subjects that I was asking
8 you relating to sentence, like child support, court
9 debt dependents and disability; correct?

10 A I don't recall what he said at his
11 deposition several months ago.

12 Q Let me ask you a different question then.
13 You were watching the video and had the audio of
14 that deposition?

15 A Judge Sigler?

16 Q You had said during -- yes. Or were you
17 in the room with him?

18 A I was in the room with him.

19 Q Okay. So this wasn't like Judge DeLapp
20 where the audio might have been going in and out;
21 correct?

22 A Correct.

23 Q After you heard Judge Sigler testify about
24 his procedures, did you have a conversation with
25 him, as his supervisor, to talk about his procedures

1 at cost docket hearings?

2 A We've had several conversations since his
3 depositions about fines and cost hearings.

4 Q Different question. Did you have a
5 conversation about things in his testimony that
6 troubled you related to his procedures at cost
7 docket hearings after you had heard Judge Sigler's
8 deposition testimony?

9 A No.

10 Q Did nothing in his testimony trouble you?

11 MR. PEDERSON: Object to form.

12 THE WITNESS: Not about --

13 Q (BY MR. FOWLER) Did nothing in his
14 testimony trouble you?

15 A Yeah, there were some things in his
16 testimony that troubled me.

17 Q What troubled you?

18 A Well, it troubled me about his testimony
19 as how the fines and cost docket was handled prior
20 to me taking office. It troubled me about his
21 testimony with respect to that manual that you were
22 referring to earlier from 2009. It troubled me
23 about -- I believe he testified with respect to
24 fines and costs warrants, failure to pay warrants,
25 all of those things were troubling.

1 Q Did nothing trouble you from Judge
2 Sigler's testimony about Judge Sigler's current
3 procedures and practices in presiding over cost
4 docket hearings or sentencing?

5 A No.

6 MR. PEDERSON: Object to form.

7 THE WITNESS: Oh, I'm sorry.

8 No.

9 Q (BY MR. FOWLER) Since that deposition was
10 taken, Judge Sigler's, have you gone in to watch the
11 way he conducts sentences or the way he conducts
12 cost docket hearings?

13 A No.

14 Q How do you make sure that what you have in
15 your conversations with Judge Sigler are executed
16 when he takes the bench and presides over a
17 sentencing or a cost docket hearing?

18 A I have complete faith and trust in him
19 doing what he tells me he does and him following the
20 law.

21 Q Have you gone back and reviewed Judge
22 Sigler's -- the transcript of Judge Sigler's
23 deposition?

24 A No.

25 Q You said that court costs are set by

1 statute; correct?

2 A Yes.

3 Q What do court costs fund?

4 A I don't know. I think there's 65
5 different things that those court costs fund, but I
6 don't know what they are specifically.

7 Q You said that your minute clerk is Halee
8 Lawrence, right?

9 A Yes.

10 Q Did you listen to the deposition testimony
11 of Ms. Lawrence?

12 A I listened to part of it.

13 Q As a matter of practice at sentencing, you
14 do not ask defendants what they would be able to pay
15 monthly?

16 A I do ask them that.

17 Q Have you had a conversation with
18 Ms. Lawrence after she was deposed about her
19 accounts of what your practices are at sentencings?

20 A Her accounts of what my practices are at
21 sentencing, I don't know what you mean by "her
22 accounts of my practices at sentencing."

23 Q Have you had a conversation with
24 Ms. Lawrence about what her perspective is in terms
25 of what you do or don't do at sentencing?

1 A No.

2 Q Ms. Lawrence serves as the clerk,
3 sometimes for you and sometimes for Judge Sigler,
4 right?

5 A No. When you say sometimes, maybe --
6 maybe once in a blue moon, if it's a -- if she's
7 substituting for somebody that's absent, but no.

8 Q So she has more exposure to you than to
9 Judge Sigler?

10 A Yes.

11 Q The installments for fines, fees and
12 costs, are they imposed as a matter of course at
13 sentencing or sometime after?

14 A The installment payments are imposed at
15 sentencing or sometime after, is that what you're
16 asking me?

17 Q The installment plan that includes the
18 total, as well as what you as the judge are asking
19 the defendant to pay, is that created at sentencing
20 or sometime after?

21 A Well, it's created at sentencing, but the
22 defendant chooses the amount of money they want to
23 pay on a monthly basis, but the installment payments
24 are imposed -- the procedure of making installments
25 payments is imposed upon the defendant at

1 sentencing.

2 Q The installment plan order is not signed
3 until after sentencing, right?

4 A I don't know of an installment plan order.
5 I don't sign an installment plan order, so I don't
6 know whether Judge Sigler has a specific order that
7 he signs or if they just sign up in the cost
8 administrator's office as to how much they're going
9 to pay per month.

10 Q After sentencing a defendant sees the cost
11 administrator typically, right?

12 A Always.

13 Q Okay. Because you always impose some
14 fines, fees and costs?

15 A There's always court costs assessed, yes,
16 not necessarily fines and fees, but court costs,
17 yes.

18 Q I'm going to share my screen again and go
19 back to your Rotary Club presentation, Exhibit MM.

20 I'm sorry, did I miss something, ma'am? I
21 just heard you laughing.

22 A Yeah, what -- what question, sir?

23 Q I'm showing you Exhibit MM, looking on
24 page 4, item B, it reads, quote, The defendant then
25 sees the cost admin and sets up a payment plan, at

1 the time monthly review hearing is set, end quote.

2 That's a fair description of current
3 policy; correct?

4 A Yes.

5 Q So the installment plan or the payment
6 plan is set up with the cost admin, the cost
7 administrator, right?

8 A Yes.

9 Q I'm going to stop sharing my screen again.
10 Your testimony is that you don't sign
11 orders for installment plans?

12 A Judge Sigler would have that
13 responsibility, sir.

14 Q You're the -- I'm talking about cases
15 where you handle the sentencing, your testimony is
16 that you don't sign the installment plan, that gets
17 handed off to Judge Sigler?

18 A The installment plan is pursuant to the
19 fines and costs that are imposed upon the defendant,
20 and once the defendant is sentenced and he's on a
21 payment plan, it goes to the fines and costs docket.

22 Q And the installment?

23 A So the answer to that question is yes.

24 Q Yes, that Judge Sigler signs any
25 installment plan, that's how you've arranged it

1 administratively?

2 A That's how we handle it in Washington
3 County. Once it goes to a fines and cost docket,
4 that's Judge Sigler's responsibility.

5 Q I want to ask you about the group of
6 individuals who are incarcerated at the jail who go
7 to DOC, the Department of Corrections, after their
8 sentencing, for those defendants, do you disclose to
9 them the total of their fines, fees and costs at
10 sentencing?

11 A To those that are being sentenced to DOC
12 and those that are already incarcerated in the jail?

13 Q Yes, and those whom you might sentence to
14 a short jail term as well?

15 A Yes.

16 Q Well, some of that hasn't been calculated
17 yet, right, incarceration fees?

18 A I ask them how many days they've been in
19 jail, they typically know and they -- they're -- I
20 ask their attorneys to make sure that they have that
21 information prior to sentencing and then I do the
22 math at \$38 a day and try to give them the amount of
23 money. Now, they -- there may be more or less time
24 that they're assessed incarceration fees, but I have
25 no control over that either.

1 Q What is your order to defendants about
2 coming back for an assessment on their ability to
3 pay for folks who are going to stay incarcerated,
4 who will be incarcerated, who may not have before?

5 A If I understand your question correctly,
6 they're advised at sentencing that they -- if
7 they're sentenced to time in the Washington County
8 jail, they need to appear within two business days
9 after the date they are released, they need to
10 appear in the cost administrator's office and set up
11 a payment plan. In the event that they are
12 sentenced to DOC, they are ordered to appear back on
13 the 181st business day after -- well, the 181st day
14 or the first business day thereafter to set up a
15 payment plan, they need to appear in the first floor
16 of the Washington County Courthouse and see the cost
17 administrator.

18 Q So your instructions to defendants, if
19 they're going to do any incarceration, is to report
20 back to see the cost administrator, not to report
21 back to see a judge?

22 A Correct.

23 Q When defendants come back those two days
24 after release from the jail, or 180 plus days after
25 release from DOC, does the cost administrator ask

1 defendants about child support obligations?

2 A I don't know.

3 Q Do you know anything the cost
4 administrators ask defendants who were sentenced to
5 incarceration by you about their -- well, let me
6 just ask that. Do you know anything about the
7 conversation that cost administrators have with
8 defendants whom you have sentenced to incarceration?

9 A I'm not present at the time that they meet
10 with the cost administrator; however, the cost
11 administrator has been directed to ask the defendant
12 if they can make payments, if they can, what does
13 their budget allow, and if they cannot, she sets
14 them on a hearing in front of Judge Sigler to
15 determine their ability to pay.

16 Q You said that the cost administrator has
17 been directed to do that. Who has directed the cost
18 administrator to do that?

19 A Judge Sigler and Judge Sigler has done
20 that through me. He deals directly with the cost
21 administer more so than I do, because he is the
22 judge that presides over the cost -- fines and costs
23 docket.

24 Q How about -- how about from Nowata County,
25 have you instructed the cost administrator to do

1 that same thing?

2 A There's not a cost administrator over
3 there, it's just the court clerk's office and those
4 people in Nowata County have a different procedure
5 over there. When they are released from DOC they
6 come back and they get a new court date from the
7 court clerk's office and then they appear before me
8 and I review their costs, fines and costs.

9 Q Why is the procedure different in Nowata
10 versus Washington Counties?

11 A Every county -- we try to meet the needs
12 of each individual county and Nowata is a very small
13 county and it is more efficient to do it that way.

14 Q Judge Sigler told you that he directed the
15 cost administrator to do this inquiry of defendants,
16 right?

17 A He and I discussed that, and I don't know
18 that he told me he did that, it's just something
19 that we do as a matter of procedure, is the
20 defendant -- I guess what I would say is just the
21 first person that the defendant sees is the cost
22 administrator and if there's something that the
23 defendant needs, other than setting up a payment
24 plan, then there's a hearing and that defendant will
25 get to see the judge.

1 Q Does -- do court-appointed attorneys for
2 defendants go with defendants to this meeting with
3 the cost administrator in Washington County?

4 A I don't know.

5 Q Do you issue an order when you sentence a
6 defendant, requiring their attorney to go with the
7 defendant to meet with the cost administrator?

8 A No.

9 Q You don't always know where defendants get
10 the money to make payments against the fines, fees
11 and costs that were imposed on them, right?

12 A I never know where they get the money.

13 Q So you wouldn't know if a defendant got
14 the majority of his or her income from government
15 benefits, right?

16 A I don't know that, I don't do the cost
17 docket.

18 Q As a lawyer, and of course as a judge, you
19 know that some government benefits have restrictions
20 that prohibit their use beyond the very specific
21 purpose that they're given for, right?

22 A I don't know.

23 Q When a defendant says to you, "Yes, I can
24 pay X amount," you don't know if that defendant is
25 foregoing food to make that monthly payment?

1 A I don't know -- the only -- the only life
2 situation that I could possible know about a
3 defendant is what they tell me, and when they tell
4 me what they believe they can make, whether it's \$50
5 or a hundred dollars, whatever it is, sometimes they
6 tell me an amount and I specifically say to them, "I
7 want you to choose an amount -- when you go
8 downstairs and talk to the cost administrator, I
9 want you to choose an amount that you can reasonably
10 pay without -- reasonably pay without creating a
11 hardship for you or your family. I don't want you
12 to go," and I do say to them, "I don't want to you
13 go without groceries, I don't want you to not be
14 able to heat your home or pay your house payment or
15 your car payment. I want you to be able to go to
16 work." We have an ongoing conversation and so I
17 always tell them to make sure that they look at
18 their budget and determine what they can pay, prior
19 to telling the cost administrator; however, if your
20 situation changes after you come up with a payment,
21 if your financial situation changes and you need
22 your costs -- your monthly payment reduced, you can
23 appear before Judge Sigler and tell him your
24 situation and he will make a determination, we go
25 through that whole colloquy every time.

1 Q So the monthly payment that a defendant
2 indicates that he or she can make, that's something
3 that the defendant tells the cost administrator, not
4 to you?

5 A Oftentimes I will ask them how much money
6 they think they can pay and they tell me and then I
7 go through that whole iteration that I just told you
8 and, yeah, sometimes they tell me.

9 Q As a matter of practice, you don't ask in
10 every case how much a defendant thinks he or she can
11 pay?

12 A As a matter of fact, I do ask that.

13 Q You said as a matter of practice you do it
14 and often you do it, when is it the case you're not
15 asking that question?

16 MR. PEDERSON: Object to form.

17 THE WITNESS: I couldn't tell you -- well,
18 sometimes when they say to me, "Well, I just intend
19 to go down and pay the whole thing today," I tell
20 them they don't have to, they can set up a payment
21 plan if they want to and we go through that whole
22 thing. We have a conversation with these people, we
23 treat them like human beings and we treat them with
24 respect and we want to make sure that they can feed
25 their family and pay their electric bill and

1 without -- and still meet their financial
2 obligations to the court.

3 Q (BY MR. FOWLER) Have you ever gone back and
4 checked the docket to see who's making payments
5 against fines, fees and costs for somebody that
6 you've sentenced?

7 A No.

8 Q You do know that the docket reflects the
9 payor, because the court clerk records the payor
10 against court debt, right?

11 A I don't understand your question, say it
12 again, please.

13 Q The court docket reflects who makes a
14 payment against a person's fines, fees and costs,
15 right?

16 A I don't know, I've never seen that.

17 Q You've never gone back to one of your old
18 cases to see if it's not the defendant who's making
19 payments, but perhaps their mother or their father,
20 fair to say?

21 A I never go back and look at that, but I
22 can say -- I can say without doubt that there are
23 many mothers, fathers, grandparents, variety of
24 other people who not only pay their fines, fees and
25 costs, but their house payment, their electric bill

1 and their car payment, and a variety of other
2 things, probably their child support as well.

3 Q You don't require defendants to come in to
4 sentencing with a summary of their assets and debts,
5 like a worksheet in that document from Exhibit JJ
6 from the office of Administrative Office of Courts,
7 right?

8 A No.

9 Q You don't ask court-appointed attorneys
10 from OIDS to sit down with their clients and prepare
11 an itemized list of assets and debts before they
12 come in to be sentenced by you, right?

13 A No, I do not.

14 Q You don't require Judge Sigler to ask for
15 the same thing from folks who are showing up at cost
16 docket hearings either, right?

17 A When it's appropriate, yes, he does, he
18 asks them to bring documentation of their financial
19 situation if they're asking for a waiver or a
20 reduction in their fines and costs.

21 Q Different question than I'm asking you.
22 In your supervisory role, you don't require Judge
23 Sigler to tell every defendant who's coming into a
24 cost docket hearing to bring in an itemized list of
25 their assets and debts, right?

1 A No, that would be unnecessary and somewhat
2 ridiculous.

3 Q And you all haven't prepared, even a stock
4 form, about assets and debts for the Washington
5 County Courthouse, right?

6 A No -- yes, right. You're asking me this
7 negative question, so I don't really know whether to
8 answer yes or no. I haven't done it, right, yes.

9 Q Understood. You do know that other judges
10 across the state have prepared stock asset and debt
11 worksheets for defendants to complete, right?

12 A I do not know that.

13 Q I want to ask you about policies or
14 procedures of the Washington County Courthouse, and
15 I specifically want to ask you about remanding
16 individuals for failure to pay fines, fees and
17 costs. Is there any written policy, procedure of
18 the Washington County Courthouse indicating that
19 defendants will not be remanded for failure to pay?

20 A No.

21 Q Is there any administrative order
22 providing that defendants in Washington County will
23 not be remanded for failure to pay?

24 A No.

25 Q I want to ask you about some policies or

1 procedures of the courthouse related to recusal.

2 Are there any written policies or practices of the
3 Washington County Courthouse that requires a judge
4 or a special judge to recuse from a case that he
5 prosecuted himself when he was an assistant district
6 attorney?

7 A No.

8 Q Have you asked Judge Sigler --

9 A There's not any -- there's not any
10 specific to Washington County. The rules on recusal
11 are set forth in the judicial -- in the rules of
12 judicial -- proper judicial conduct.

13 Q Have you talked with Judge Sigler since
14 his deposition or the deposition of Judge DeLapp
15 about whether he should be considering more
16 carefully his requirement to recuse on cases that he
17 himself prosecuted?

18 A No.

19 Q Why not?

20 A I don't believe it to be necessary or
21 appropriate.

22 Q You don't believe it appropriate for a
23 special judge to recuse from a case that he himself
24 prosecuted?

25 MR. PEDERSON: Object to form.

1 THE WITNESS: Recused on the fines and
2 costs docket?

3 Q (BY MR. FOWLER) Correct.

4 A No, I don't believe it's necessary.

5 Q Have you read the cases that were sent
6 over for Judge DeLapp's deposition that related to
7 the requirement of recusal?

8 A No.

9 Q Are you aware of the case law that
10 indicates the bounds of the recusal requirement,
11 whether it's limited to just, for example,
12 presentencing, or whether it extends beyond that to
13 post-sentencing proceedings?

14 A I don't know that I've seen that case law
15 that you -- I don't know what case law you're
16 referring to, so I don't --

17 Q So you haven't -- have you done research
18 into when recusal is appropriate for a special
19 judge, for example, in your supervisory role?

20 A In general?

21 Q Since you became the district judge for
22 the 11th Judicial District, have you done any
23 research about whether, when a judge or special
24 judge has to recuse or not from a case he or she
25 prosecuted?

1 A Have I done any research? I've reviewed,
2 on numerous occasions, the requirements of
3 qualification on recusal, I have an outline that was
4 presented by chief -- former Chief Justice Reeve
5 regarding disqualifications and recusals and I keep
6 that close at hand, because any time I believe it
7 might be appropriate for me to recuse or disqualify
8 on a case I review those very carefully, so yes.

9 Q You haven't worked as an ADA or a DA,
10 right?

11 A I have not.

12 Q Was Judge Sigler given any special
13 training for the unique circumstances that come up
14 when an ADA who is prosecuting most recently then
15 joins the bench as a special judge?

16 A I don't know, sir.

17 Q I want to ask you some questions about the
18 OIDS attorneys who appear before you at sentencing.
19 At sentencing, OIDS attorneys do not regularly
20 provide to you an itemization of their client's
21 assets and debts, right?

22 A No.

23 Q At sentencing, OIDS attorneys don't
24 regularly tell you their client's disability status?

25 A Typically if -- well, sometimes they do

1 and sometimes they don't, I can't tell you whether
2 they always do or not.

3 Q OIDS attorneys who appear before you at
4 sentencing don't regularly tell you about a client's
5 court debts from other cases outside Washington
6 County?

7 A Sometimes they tell me that as well.

8 Q I'm asking you about regularly, not
9 sometimes.

10 A You know, I'm not sure what you're -- what
11 you mean by "regularly." If you mean every time,
12 no. On a somewhat regular basis, yes. Some
13 attorneys -- some OIDS attorneys will do it more
14 often than others.

15 Q Who does it more often than others?

16 A I don't know. I don't know. I have OIDS
17 attorneys in Nowata County and in this county and...

18 Q OIDS attorneys don't regularly ask you to
19 go back and review their client's affidavits of
20 indigence at sentencing?

21 A No.

22 Q Or point you to a particular page of an
23 affidavit of indigence reflecting a client's debts
24 or assets?

25 A No.

1 Q OIDS attorneys don't regularly ask for
2 fines, fees or costs to be waived or reduced at
3 sentencing in front of you?

4 A No.

5 Q I want to ask you a little bit about
6 appointment of counsel at cost docket hearings. I
7 know -- well, let me ask. You don't require judges
8 in this courthouse, in Washington County Courthouse,
9 to appoint an attorney if the judge is considering
10 incarceration; correct?

11 A Any -- any defendant who is subject to
12 incarceration can be -- yes, has the opportunity to
13 either hire counsel on their own, ask for a
14 court-appointed attorney, or represent themselves,
15 it's the defendant's option, but the judge -- any
16 time incarceration is a possible punishment, they
17 have -- they are directed that they have the right
18 to be represented by counsel, yes.

19 Q Your testimony is that any time a
20 defendant is subject to incarceration in the
21 Washington County Courthouse, the presiding judge or
22 special judge informs the defendant that they have
23 the right to be appointed by counsel, and if they
24 cannot afford counsel, an attorney will be appointed
25 to them?

1 A Yes.

2 Q Are there written policies or procedures
3 in place on this exact issue, appointing counsel,
4 when incarceration is a possibility and
5 court-appointed counsel for folks who cannot afford
6 one?

7 A Sir, I believe that we're required to do
8 that by statute. We don't incarcerate people
9 without the right to have an attorney present with
10 them.

11 Q Does Washington County have any written
12 policies or procedures on appointing counsel for
13 folks who can't afford it if incarceration is a
14 possibility at cost docket hearings?

15 A Separate and apart from the Oklahoma
16 statutes, we do not. I don't need a policy on
17 what's already required of us to do.

18 Q Is there any administrative order within
19 Washington County that requires judges to appoint
20 counsel at a cost docket hearing if a judge is
21 considering an incarceration?

22 A No.

23 Q I want to go back to some of your
24 testimony about OIDS attorneys asking to be relieved
25 at sentencing. Your testimony was that OIDS

1 attorneys do not regularly request to be relieved
2 from representation at sentencing, right?

3 A That's correct.

4 Q So when there's a post-sentencing hearing,
5 like a cost docket hearing, and OIDS does not show
6 up, do you contact the attorney who has not been
7 relieved from the case?

8 A Well --

9 MR. WILLIFORD: I'm going to object to the
10 form of that question.

11 THE WITNESS: You're asking -- you're
12 asking me questions that don't -- I can't answer
13 that question the way you've asked me, and this is
14 why, you asked me: Do they request to be relieved
15 of their duties as counsel at sentencing hearing?
16 And the answer to that question is typically they do
17 not ask me to be relieved of their duties as
18 court-appointed counsel at sentencing hearing.

19 What happens at a fines and cost docket,
20 in my mind, is unrelated. The case is over, by
21 matter of law, the court-appointed counsel is
22 relieved of those duties, but I don't believe that a
23 court-appointed counsel is relieved of its duties to
24 represent the defendant until and unless the appeal
25 time has run.

1 Q (BY MR. FOWLER) What law are you pointing
2 to that automatically relieves an OIDS attorney of
3 his or her obligations?

4 A Well --

5 Q Or --

6 A In any case, when the case is filed --

7 Q Could I fin -- ma'am, could I just finish
8 my question?

9 A Well, you could, except that you keep
10 cutting out, and I'm trying to do that, but I'm
11 having a difficult time because of our internet
12 connection.

13 Q What law relieves OIDS attorneys of their
14 representation in a case at a cost docket hearing,
15 if a judicial order has not relieved the attorney of
16 the representation obligation?

17 A When a case is over, final -- whether it's
18 criminal or civil, when that case is over, the
19 attorney of record is relieved of duties to ongoing
20 representation, whether it's a criminal case or a
21 civil case. Once a court-appointed attorney is
22 appointed to represent a defendant that doesn't mean
23 they're represented for life. When the case is over
24 the judgment and sentence is signed, by matter of
25 law, they are relieved of their duties, once the

1 appeal process -- the appeal time has run. It is
2 good practice for them to file a motion and get an
3 order to withdraw, but they don't always do so.

4 Q What law relieves an OIDS attorney of
5 representation --

6 A I don't know.

7 Q -- after sentencing?

8 A When I say "by matter of law," that just
9 means there's no -- there's no written law that says
10 that. When the case is over, the case is over. For
11 example, if on a motion to revoke that OIDS attorney
12 does not automatically represent his or her client
13 that he or she represented in an underlying case,
14 the defendant has to, once again, make application
15 for court-appointed counsel and after that is --
16 after that application is reviewed and determined
17 whether or not the defendant is indigent, he or she
18 will be appointed counsel, if appropriate.

19 Q I want to ask you about that 2009 manual
20 from the Administrative Office of the Courts. When
21 I first asked you about that manual you indicated to
22 me you've never seen it before, you then testified
23 that it troubled you when Special Judge Sigler
24 started talking about that 2009 manual. When was
25 the first time you saw that manual?

1 A Well, I saw -- you referred to it in his
2 deposition, and I don't know that I saw it at his
3 deposition, and then you showed it to me earlier in
4 my deposition, I had not seen it before.

5 Q So you heard Judge Sigler testify about
6 the AOC manual?

7 A I did hear him testify about it, yes, sir.

8 Q Why didn't you try to find the manual and
9 read it then to see what might be out there that
10 people are given instructions on inside the
11 Washington County Courthouse?

12 A People aren't given -- I'm sorry.

13 MR. PEDERSON: Object to form. Go ahead.

14 THE WITNESS: People aren't given
15 instructions on that manual, sir, in the Washington
16 County Courthouse, we don't use that.

17 Q (BY MR. FOWLER) Why didn't you try to
18 figure out if that manual was located somewhere
19 within the Washington County Courthouse?

20 A It is irrelevant to me. That manual is
21 not used in our courthouse by any judge.

22 Q Does it trouble you that -- would it
23 trouble you if the clerk's office had that on file
24 somewhere?

25 A They don't have it on file, that's not

1 something we file in the court clerk's office. If
2 they have a copy of -- no, it doesn't trouble me if
3 they have old copies of things that we don't use, I
4 don't -- no, it does not trouble me.

5 Q You've never read over that manual cover
6 to cover?

7 A No, I have not.

8 Q So if you're saying it has -- if you're
9 saying it is not used in the Washington County
10 Courthouse, what troubled you about Judge Sigler's
11 testimony about the manual when you were sitting
12 next to him listening to the testimony?

13 A I think the thing that troubled me the
14 most about it was when he testified that all the S's
15 in the manual were dollar signs, I think that was a
16 question that was asked and --

17 Q Ma'am --

18 A -- as I recall his testimony, that was the
19 first time he'd ever seen that manual, too, is when
20 you called his attention to it.

21 Q And your testimony is that what troubled
22 you most about the manual from 2009 was that it had
23 dollar signs instead of S's, that's your testimony?

24 MR. PEDERSON: Object to form. She says
25 she hasn't read the manual, she heard about it in

1 Judge Sigler's deposition when he talked about it
2 when she was sitting across the room.

3 You can answer if you have another answer.

4 THE WITNESS: I've forgotten the question
5 by now, if you'll repeat it, please.

6 Q (BY MR. FOWLER) Your testimony is what
7 troubled you the most about Judge Sigler's testimony
8 about that manual was that it had some typos in it?

9 MR. PEDERSON: Object to form.

10 THE WITNESS: It didn't have typos in it,
11 those were intentional -- intentional. I don't know
12 what that manual says, we don't use that manual. My
13 understanding is that's the first time Judge Sigler
14 ever saw the manual, so he didn't know what was in
15 the manual either. We don't use it, I don't know
16 anything about it, other than the brief time that
17 you spent -- or someone spent on it, asking him
18 questions about it. We don't use that manual.

19 Q (BY MR. FOWLER) What else troubled you
20 about Judge Sigler's testimony about the manual,
21 besides dollar signs appearing in the place of S's?

22 A Apparently the overall theme of that
23 manual was to collect as much fines, fees and costs
24 as possible, that's -- as I recall, that was some of
25 the questioning and some of the answers with respect

1 to specific paragraphs in that manual, and that was
2 my understanding of the whole purpose of that
3 manual, was to teach judges how to collect fines,
4 fees and costs.

5 Q Do you know what AOC's current training on
6 fines, fees and costs is?

7 A I do not.

8 Q Have you asked any of -- well, have you
9 asked Judge Sigler about whether he's gone to an AOC
10 training on fines, fees and costs that's
11 substantially similar to the manual that troubled
12 you?

13 A No.

14 Q Do you require special judges, Special
15 Judge Sigler, to attend a training that relates to
16 his docket of cost dockets?

17 A No.

18 Q Give me one second.

19 By some miracle, I think I've asked you
20 all the questions I want right now. So Jon or
21 Devan, if you all ant to jump in?

22 MR. WILLIFORD: I do not have any
23 questions for you at this time, your Honor.

24 MR. PEDERSON: Give me one minute here.

25 MR. FOWLER: I'm sorry, Devan, I wanted to

1 raise an objection to your conferring with the
2 witness, if you're there right now.

3 MS. LAWSON: He's talking to you.

4 MR. PEDERSON: Yes, go ahead.

5 MR. FOWLER: I want to object to you
6 conferring with the witness in any way prior to your
7 cross examination. I think the case law is fairly
8 clear that, unless we're taking an unrelated break,
9 conferring with the witness is disfavored, or if
10 you're considering whether to assert a privilege, I
11 think that's permissible under the case law. So are
12 you considering whether to assert a privilege and
13 are you conferring with the witness?

14 MR. PEDERSON: I believe your questions
15 are over, so I'm not aware of any cases that would
16 stop me from talking to co-counsel or the witness,
17 but I'll note your objection for the record.

18 MR. FOWLER: So am I right that you are
19 not talking with the witness about asserting a
20 privilege?

21 MR. PEDERSON: I am not talking to the
22 witness about asserting a privilege.

23 MR. FOWLER: Very well.

24 MR. PEDERSON: Thank you.

25 If we're ready to go back on the record, I

1 have no questions and Judge Thomas will read and
2 sign.

3 (DEPOSITION CONCLUDED AT 12:02 P.M.)
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JURAT

FEENSTRA vs. SIGLER

I, LINDA THOMAS, do hereby state under oath that I have read the above and foregoing deposition in its entirety and that the same is a full, true and correct transcription of my testimony so given at said time and place.

Signature of Witness

Subscribed and sworn to before me, the undersigned Notary Public by said witness, LINDA THOMAS, on this _____day of _____, 2021.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

(LA) JOB FILE #149139

ERRATA SHEET

FEENSTRA vs. SIGLER

DEPOSITION OF LINDA THOMAS

REPORTED BY: Lacy Antle, CSR, RPR

DATE DEPOSITION TAKEN: JANUARY 28, 2021

JOB FILE NO. 149139

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CERTIFICATE

STATE OF OKLAHOMA)

) SS:

COUNTY OF OKLAHOMA)

I, Lacy Antle, Certified Shorthand Reporter within and for the State of Oklahoma and for the State of Arkansas do hereby certify that the above-named LINDA THOMAS was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, in the case aforesaid; that the above and foregoing deposition was by me taken in shorthand and thereafter transcribed; and that I am not an attorney for nor relative of any of said parties or otherwise interested in the event of said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 5th day of February, 2021.

Lacy Antle, CSR, RPR

Oklahoma CSR #1865

Arkansas CCR #791